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# HOUSE BILL No. 1648

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-21-1-2; IC 9-22; IC 9-25-1-7; IC 9-26; IC 14-16-1.

**Synopsis:** Off-road vehicles on certain streets and highways. Authorizes a municipality to adopt an ordinance (ordinance) authorizing the use of off-road vehicles on a highway, street, right-of-way, or public parking lot in the jurisdiction of the municipality. Mandates the ordinance to require that the individual operating the off-road vehicle hold one of certain types of driver's license and that an individual under 18 years of age operating or riding on the off-road vehicle be required to wear certain protective headgear. Authorizes the ordinance to require that financial responsibility be in effect for operation of the off-road vehicle. Makes conforming amendments.

**Effective:** July 1, 2009.

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## Borders

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January 16, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1648

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-21-1-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in section  
3 3.5 of this chapter, a local authority may adopt by ordinance additional  
4 traffic regulations with respect to highways under the authority's  
5 jurisdiction. An ordinance adopted under this subsection may not  
6 conflict with or duplicate a statute.  
7 (b) After a request has been made at a public meeting or by certified  
8 mail to the legislative body (as defined in IC 36-1-2-9) from the  
9 property owner, a local authority may adopt by ordinance additional  
10 traffic regulations with respect to a private road within the authority's  
11 jurisdiction. The ordinance:  
12 (1) must require a contractual agreement between the local  
13 authority and property owner of the private road setting forth the  
14 terms and responsibilities of the additional traffic regulations;  
15 (2) must require the contractual agreement required under  
16 subdivision (1) to be recorded after passage of the ordinance in  
17 the office of the recorder of the county in which the private road

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is located; and

(3) may not conflict with or duplicate state law.

**(c) In addition to the authority set forth in subsections (a) and (b), a municipality (as defined in IC 36-1-2-11) may adopt by ordinance traffic regulations concerning the use of off-road vehicles on a highway, street, right-of-way, or public parking lot in the jurisdiction of the municipality under IC 14-16-1-20(a)(4).**

~~(c)~~ **(d)** A fine assessed for a violation of a traffic ordinance adopted by a local authority may be deposited into the general fund of the appropriate political subdivision.

SECTION 2. IC 9-22-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter does not apply to the following:

(1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.

(2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

(3) A vehicle located on a vehicle sale lot.

(4) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(5) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.

**(6) An off-road vehicle.**

SECTION 3. IC 9-22-3-0.5, AS ADDED BY P.L.219-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. For purposes of this chapter:

**(1) "motor vehicle" does not include an off-road vehicle; and**

**(2) "vehicle" does not include an off-road vehicle.**

SECTION 4. IC 9-22-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a) This section does not apply to a person who sells, exchanges, or transfers off-road vehicles.**

**(b)** A seller that is:

(1) a dealer; or

(2) another person who sells, exchanges, or transfers at least five

(5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 5. IC 9-25-1-7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7. This article does not apply to the operator of an off-road vehicle being operated on a highway, street, right-of-way, or parking lot in accordance with IC 14-16-1-20(a)(4).**

SECTION 6. IC 9-26-1-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.3. Except as provided in section 7 of this chapter, this chapter does not apply to the operator of an off-road vehicle being operated on a highway, street, right-of-way, or public parking lot in accordance with an ordinance adopted under IC 14-16-1-20(a)(4).**

SECTION 7. IC 9-26-6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. Section 1 of this chapter applies to a person removing a wrecked or damaged off-road vehicle from a street or highway.**

SECTION 8. IC 14-16-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20. (a) An individual may not operate a vehicle required to be registered under this chapter upon a public highway, street, or rights-of-way thereof or on a public or private parking lot not specifically designated for the use of vehicles, except under the following conditions:**

(1) A vehicle may be operated on the public right-of-way adjacent to the traveled part of the public highway, except a limited access highway, if there is sufficient width to operate at a reasonable distance off and away from the traveled part and in a manner so as not to endanger life or property.

(2) The operator of a vehicle may cross a public highway, other than a limited access highway, at right angles for the purpose of getting from one (1) area to another when the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway and shall yield the right-of-way to all traffic.

(3) Notwithstanding this section, a vehicle may be operated on a highway in a county road system outside the corporate limits of a city or town if the highway is designated for this purpose by the county highway department having jurisdiction.

**(4) Notwithstanding this section, an off-road vehicle may be operated on a public highway, street, right-of-way, or public parking lot in the jurisdiction of a municipality (as defined in IC 36-1-2-11) if the municipality has adopted by ordinance additional traffic regulations concerning the use of off-road**

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vehicles on a highway, street, right-of-way, or public parking lot under the jurisdiction of the municipality. An ordinance adopted under this subsection:

(A) must require that a person less than eighteen (18) years of age who operates or rides an off-road vehicle on a highway, street, right-of-way, or public parking lot:

(i) wear protective headgear or a helmet that meets the standards established by the United States Department of Transportation under 49 CFR 571.218 in effect January 1, 1979; and

(ii) wear protective glasses, goggles, or a transparent face shield;

(B) must require that an individual have an operator's, a chauffeur's, a public passenger chauffeur's, or a commercial driver's license to operate an off-road vehicle upon a highway, street, right-of-way, or public parking lot; and

(C) may require financial responsibility to be in effect for the off-road vehicle.

~~(4)~~ (5) A law enforcement officer of a city, town, or county or the state may authorize use of a vehicle on the public highways, streets, and rights-of-way within the officer's jurisdiction during emergencies when conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

~~(5)~~ (6) A vehicle may be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.

(b) An individual less than fourteen (14) years of age may not operate a vehicle without immediate supervision of an individual at least eighteen (18) years of age, except on land owned or under the control of the individual or the individual's parent or legal guardian.

(c) An individual may not operate a vehicle on a public highway without a valid motor vehicle driver's license.

(d) A vehicle may not be used to hunt, pursue, worry, or kill a wild bird or a domestic or wild animal.

SECTION 9. IC 14-16-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a)** A county ~~city,~~ ~~or town~~ may pass an ordinance regulating the operation of vehicles if

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the ordinance meets substantially the minimum requirements of this chapter. However, a county ~~city, or town~~ may not adopt an ordinance that does any of the following:

- (1) Imposes a fee for a license.
- (2) Specifies accessory equipment to be carried on the vehicles.
- (3) Requires a vehicle operator to possess a driver's license issued under IC 9-24-11 while operating an off-road vehicle or snowmobile.

**(b) A city or a town may pass an ordinance regulating the operation of snowmobiles if the ordinance meets substantially the minimum requirements of this chapter. However, a city or town may not adopt an ordinance that does any of the following:**

- (1) Imposes a fee for a license.**
- (2) Specifies accessory equipment to be carried on the vehicles.**
- (3) Requires a snowmobile operator to possess a driver's license issued under IC 9-24-11 while operating a snowmobile.**

SECTION 10. IC 14-16-1-23, AS AMENDED BY P.L.219-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) An individual shall not operate a vehicle under any of the following conditions:

- (1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another.
- (2) While:
  - (A) under the influence of an alcoholic beverage; or
  - (B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.
- (3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.
- (4) In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.
- (5) On the frozen surface of public waters within:
  - (A) one hundred (100) feet of an individual not in or upon a vehicle; or
  - (B) one hundred (100) feet of a fishing shanty or shelter; except at a speed of not more than five (5) miles per hour.
- (6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

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(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest, **unless operating in accordance with an ordinance adopted under the authority granted by section 20(a)(4) of this chapter.**

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties, **unless operating in accordance with an ordinance adopted under the authority granted by section 20(a)(4) of this chapter.**

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a handgun if the person:

(1) has been issued an unlimited handgun license to carry a handgun under IC 35-47-2; or

(2) is not required to possess a license to carry a handgun under IC 35-47-2-2.

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